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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,304	10/31/2003	Robert Preston Parker	02103-531001/AABOSW07	3923

26162 7590 11/14/2007
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

DABNEY, PHYLESHE LARVINIA

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,304

Applicant(s)

PARKER ET AL.

Examiner

Phylesha L. Dabney

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> |

Continuation of Attachment(s) 6). Other: Copy of email correspondence for scanning.

DETAILED ACTION

This action is in response to the reply to restriction/election requirement received 3 April 2007. A phone call was placed on 6 June 2007 to advise the Attorney that Species I included additional species relative to Figures 1-4I. An email including an Internet Email Communication Request statement was sent on 8 June 2007 per a phone conversation on the same day. The authorization has not been approved, so email communication is not allowed. Therefore, a supplement restriction is being send herewith.

Election/Restrictions

This application contains claims directed to the following patentably distinct species:

Species I: Upon further review, it is noted that claims 1-16 and 25 teaches several embodiments of an electroacoustic enclosure with two ports encompassed by Figures 1-4I. If this species is selected, then an additional selection of the Figure and claims sort to be examined relative to this sole figure also needs to be selected.

Species II: Claims 17-24 teaches a second embodiment utilizing two electroacoustic enclosures with two ports.

Species III: Claim 26 teaches a third embodiment of an electroacoustic enclosure utilizing a port tube.

The species are independent or distinct because the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Art Unit: 2614

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

Or faxed to:
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:
Customer Service Window

Art Unit: 2614

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 11, 2007


PLD


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Art Unit: 2614

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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Hand-delivered responses should be brought to:

Customer Service Window

Dabney, Phylesha L.

From: Chuck Hieken [Hieken@fr.com]
Sent: Friday, June 08, 2007 4:41 PM
To: Dabney, Phylesha L.
Subject: RE: Communication via Internet email

Thanks. I will respond Monday. Hoe you have a pleasant weekend.

-----Original Message-----

From: Dabney, Phylesha L. [mailto:Phylesha.Dabney@USPTO.GOV]
Sent: Friday, June 08, 2007 3:23 PM
To: Chuck Hieken
Subject: Communication via Internet email

As requested per our phone conversation on 8 June 2007, I am sending you the section that you need to authorize email communication. In addition, you will find MPEP section 502.03 which covers Internet Email authorization in detail.

> The following is a sample authorization form which may be used by applicant:

> "> Recognizing that Internet communications are not secure, I hereby
> authorize the USPTO to communicate with me concerning any subject
> matter of this application by electronic mail. I understand that a
> copy of these communications will be made of record in the application
> file.> ">

>
>

> Thank you,
> Phylesha L Dabney
> Patent Examiner, Art Unit 2614
> U.S. Patent & Trademark
> 501 Dulany Street
> Alexandria, Virginia
> phone: 571-272-7494
 fax: 571-273-7494
> email: phylesha.dabney@uspto.gov

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> =====
> MPEP 502.03 [R-2] Communications via the Internet
> See Internet Usage Policy, 64 *>FR< 33056 (June 21, 1999). The
> Articles of the Patent Internet Usage Policy pertinent to
> communications via electronic mail are summarized below. See MPEP §
> 904.02(c) for information pertinent to Internet searching, and MPEP §
> 707.05(e) for information pertaining to the citation of electronic
documents. See also MPEP § 713.04 for recordation of e-mail interviews.

>
>

> I. CONFIDENTIALITY OF PROPRIETARY INFORMATION (ARTICLE 4) If security

> and confidentiality cannot be attained for a specific use,
> transaction, or activity, then that specific use, transaction, or
> activity shall NOT be undertaken/conducted.

> All use of the Internet by Patent Organization employees, contractors,
> and consultants shall be conducted in a manner that ensures compliance
> with confidentiality requirements in statutes, including 35 U.S.C.
> 122, and regulations. Where a written authorization is given by the
> applicant for the USPTO to communicate with the applicant via Internet e-
mail, communications via Internet e-mail may be used.

> Backup, archiving, and recovery of information sent or received via
> the Internet is the responsibility of individual users. The OCIO does
> not, and will not, as a normal practice, provide backup and recovery
> services for information produced, retrieved, stored, or transmitted
to/from the Internet.

>

> II. COMMUNICATIONS VIA THE INTERNET AND AUTHORIZATION (ARTICLE 5)

> Communications via Internet e-mail are at the discretion of the
applicant.

> Without a written authorization by applicant in place, the USPTO will
> not respond via Internet e-mail to any Internet correspondence which
> contains information subject to the confidentiality requirement as set
> forth in 35 U.S.C. 122. A paper copy of such correspondence will be
placed in the appropriate patent application.

>

>

> The following is a sample authorization form which may be used by
applicant:

> "> Recognizing that Internet communications are not secure, I hereby
> authorize the USPTO to communicate with me concerning any subject
> matter of this application by electronic mail. I understand that a
> copy of these communications will be made of record in the application
> file.> ">

>

>

> A written authorization may be withdrawn by filing a signed paper
> clearly identifying the original authorization. The following is a
> sample form which may be used by applicant to withdraw the authorization:

> "> The authorization given on _____, to the USPTO to communicate with
> me via the Internet is hereby withdrawn. I understand that the
> withdrawal is effective when approved rather than when received.> ">

>

>

> Where a written authorization is given by the applicant,
> communications via Internet e-mail, other than those under 35 U.S.C.
> 132 or which otherwise require a signature, may be used. In such case,
> a printed copy of the Internet e-mail communications MUST be given a
> paper number> , entered into the Patent Application Locating and
> Monitoring System (PALM) and entered in the patent application file. A
> reply to an Office action may NOT be communicated by applicant to the
> USPTO via Internet e-mail. If such a reply is submitted by applicant via
Internet e-mail, a paper copy will be placed in the appropriate patent
application file with an indication that the reply is NOT ENTERED.

> >For Image File Wrapper (IFW) processing, see IFW Manual.<

>

>

- > USPTO employees are NOT permitted to initiate communications with
- > applicants via Internet e-mail unless there is a written authorization
- > of record in the patent application by the applicant.
- >
- > All reissue applications are open to public inspection under 37 CFR
- > 1.11(a) and all papers relating to a reexamination proceeding which
- > have been entered of record in the patent or reexamination file are open
- > to public inspection under 37 CFR 1.11(d).
- > USPTO employees are NOT permitted to initiate communications with
- > applicant in a reissue application or a patentee of a reexamination
- > proceeding via Internet e-mail unless written authorization is given by
- > the applicant or patentee.
- >
- > III. AUTHENTICATION OF SENDER BY A PATENT ORGANIZATION RECIPIENT
- > (ARTICLE 6) The misrepresentation of a sender's identity (i.e.,
- > spoofing) is a known risk when using electronic communications.
- > Therefore, Patent Organization users have an obligation to be aware of
- > this risk and conduct their Internet activities in compliance with
- > established procedures.
- > Internet e-mail must be initiated by a registered practitioner, or an
- > applicant in a pro se application, and sufficient information must be
- > provided to show representative capacity in compliance with 37 CFR
- > 1.34. Examples of such information include the attorney registration
- > number, attorney docket number, and patent application number.
- >
- > IV. USE OF ELECTRONIC MAIL SERVICES (ARTICLE 7) Once e-mail
- > correspondence has been received from the applicant, as set forth in
- > Patent Internet Usage Policy Article 4, such correspondence must be
- > responded to appropriately. The Patent Examiner may respond to an
- > applicant's e-mail correspondence by telephone, fax, or other
- > appropriate means.
- >
- > V. INTERVIEWS (ARTICLE 8)
- > Internet e-mail shall NOT be used to conduct an exchange of
- > communications similar to those exchanged during telephone or personal
- > interviews unless a written authorization has been given under Patent
- > Internet Usage Policy Article 5 to use Internet e-mail. In such cases,
- > a paper copy of the Internet e-mail contents MUST be made and placed
- > in the patent application file, as required by the Federal Records Act,
- > in the same manner as an Examiner Interview Summary Form is entered.
- >
- >
- > VI. POLICY GUIDANCE AND CLARIFICATIONS (ARTICLE 13) Within the Patent
- > Organization, any questions regarding Internet usage policy should be
- > directed to the user's immediate supervisor. Non-USPTO personnel
- > should direct their questions to the Office of the Deputy Commissioner
- > for Patent Examination Policy.
- >
- >
- >

This email message is for the sole use of the intended recipient(s) and may

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